



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature  
Second Regular Session

House: ED DP 6-4-0-1 | 3rd Read 31-28-1-0  
Senate: ED DPA 5-3-0-0 | 3rd Read 16-12-2-0

## **HB 2161: parental rights; schools; educational records**

**Sponsor: Representative Kaiser, LD 15**

**Senate Engrossed**

### **Overview**

Expands statutory parental rights relating to the upbringing, education, health care and mental health of a parent's minor child.

### **History**

Statute declares that all parental rights are reserved to a parent of a minor child without obstruction or interference from the state, a state political subdivision and any other governmental entity or institution. Statute outlines numerous parental rights (this is often referred to as the parents' bill of rights) and declares that unless otherwise required by law, the rights of parents of minor children may not be limited or denied ([A.R.S. § 1-602](#)).

A school district governing board, in consultation with parents, teachers and administrators, is required to adopt policies to promote the involvement of parents of children enrolled in the school district. These policies must include procedures by which parents may learn about parental rights and responsibilities, including, but not limited to: the right to opt in to a sex education curriculum, the right to opt out of immunizations and the right to review test results ([A.R.S. § 15-102](#)).

School districts and charter schools must obtain written informed consent from a pupil's parent before administering any survey that is retained by the school or the Arizona Department of Education (ADE) for longer than one year and that solicits specified personal information. Currently, a school must obtain written informed consent from the pupil's parent at the beginning of every school year for the pupil to participate in any survey that falls under the aforementioned criteria ([A.R.S. § 15-117](#)).

### **Provisions**

#### ***Parental Rights***

1. Prohibits an employee of the state, any state political subdivision, governmental entity or other institution from withholding from a minor child's parent any information that is relevant to the physical, emotional or mental health of the parent's child, unless the information is subject to report pursuant to the duty to report abuse statute. (Sec. 1)
2. States withholding relevant information from a minor child's parent is grounds for discipline. (Sec. 1)
3. Prohibits the state, a state political subdivision or any other governmental entity, or any state official, state political subdivision or other governmental entity acting under color of law, from interfering with or usurping a parent's fundamental right to direct the upbringing, education, health care and mental health of their children. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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4. Allows a parent to bring suit against a governmental entity or official based on any violation of statutory parental rights in superior court, federal court or before an administrative tribunal of appropriate jurisdiction. (Sec. 1)
5. Allows a parent to raise a violation of statutory parental rights as a claim or defense. (Sec. 1)
6. Details the burden of proof a government entity or official must demonstrate to interfere with or usurp a parent's fundamental right to direct the upbringing, education, health care and mental health of their children. (Sec. 1)
7. Permits a governmental entity or official to interfere with or usurp the fundamental right of parents to direct the upbringing, education, health care and mental health of their children only if the government entity or official successfully demonstrates the burden of proof. (Sec. 1)
8. Directs the court to grant appropriate relief if a governmental entity is unsuccessful in demonstrating the burden of proof. (Sec. 1)
9. Provides that statute does not preempt or foreclose claims or remedies in support of parental rights that are available under the Arizona constitution, statutes or common law. (Sec. 1)

#### ***Parental Access to Written and Electronic Records***

10. Specifies that parental rights include the right to access all written and electronic medical records of their minor child, including access to medical records for services that do not require parental consent. (Sec. 1)
11. Mandates a health care entity give a parent equivalent access to any electronic portal and any other health care delivery platform throughout the minority of the parent's child. (Sec. 1)
12. Entitles a parent to access to all written and electronic records of a school district or charter school or employee concerning the parent's child and to all electronic accounts of the parent's child. (Sec. 4)
13. Requires a school district's policies to include procedures by which parents may learn about the right to access all written and electronic records of a school district or school district employee concerning the parent's child. (Sec. 2)
14. Prohibits a school district or charter school employee from withholding information from, or facilitating students to withhold or conceal information from, the student's parents about the student's physical, emotional or mental health, unless the information is subject to report pursuant to the duty to report abuse statute. (Sec. 4)
15. Allows a parent to file suit against a school district or charter school that fails to provide access to all written and electronic records concerning the parent's child or if an withholds information from the student's parents about the student's physical, emotional or mental health. (Sec. 4)
16. States that a parent who successfully asserts a claim may recover appropriate relief. (Sec. 4)

#### ***Parental Consent for Surveys***

17. Requires, at least seven days before administering any survey to a pupil that solicits specified personal information about the pupil, every school district and charter school to:
  - a) Provide a copy of the survey to the pupil's parent along with a written informed consent form; and
  - b) Obtain, from the parent, written informed consent for the pupil to participate in the survey. (Sec. 3)

#### ***Miscellaneous***

18. Makes technical changes. (Sec. 1, 2, 3)
19. Makes conforming changes. (Sec. 1)

### **Senate Amendments**

1. Removes language that:
  - a) Mandates a health care entity give a parent equivalent access to any electronic portal and any other health care delivery platform throughout the minority of the parent's child; and
  - b) Includes, in parental rights, the right to access written and electronic medical records of a minor child for services not requiring parental consent.
2. Specifies a parent has the right to request access and review all written and electronic medical records of their minor child.
3. Deletes language that prohibits:
  - a) An employee of the state, a political subdivision, governmental entity or any other institution from withholding relevant information about a minor child's physical, emotional or mental health from the child's parent; and
  - b) A school district or charter school employee from withholding information from, or facilitating students to withhold information from, the student's parent about the student's physical, emotional or mental health.
4. Alters the exams and surveys exempted from statutory parental consent requirements by:
  - a) Including any exam administered by a nationally recognized college entrance or career readiness exam provider that a student takes on public school property, regardless of whether the exam is taken during the school day;
  - b) Removing any survey that contains questions soliciting specified personal information about the student if the survey does not require any personally identifiable information; and
  - c) Adding the stipulation that a survey conducted by the Arizona Criminal Justice Commission is exempted if the school district or charter school provides the pupil's parent with a copy or electronic access to the survey at least seven days prior to administration.